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Court of Justice of the Federal District and Territories.
Court of Justice of the Federal District and Territories

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SUPERIOR TRIBUNAL DE JUSTIÇA

Official Letter No. 006555/2024-CPPR

Oh (Oh)
COURT OF LAW OF THE 3RD COURT OF EXECUTION OF EXTRAJUDICIAL TITLES AND Arbitration Disputes in Brasília - DF

Subject: CONFLICT OF JURISDICTION no. 204998/DF (2024/0167106-6)

REPORTER MINISTER ANTONIO CARLOS FERREIRA

ORIGINAL NUMBER: 07150788120248070001, 50019828420248210026, 7150788120248070001

RAISING THE ISSUE: COURT OF LAW OF THE 3RD COURT OF EXECUTION OF TITLES Extrajudicial and Arbitration Disputes in Brasília - DF

RAISED BY: COURT OF LAW OF THE 3RD CIVIL COURT OF SANTA CRUZ DO SUL - RS

INTERESTED PARTY: AUTOTRAC COMÉRCIO E TELECOMUNICAÇÕES S/A

INTERESTED PARTY: FORT SAFE VIGILANTES LTDA

Your Honor,

By order of the Honorable Minister who signed the decision, a copy of which is attached, I hereby inform Your Excellency, for your information and appropriate action, that the aforementioned decision has been issued in the above-mentioned case file.

Any requested information may be submitted via the *link* at the bottom of this document.

To access the complete case files, simply click on the same *link* or, alternatively, through the Electronic Case Management Center at **https://cpe.stj.jus.br/#/chave,** where you only need to enter your access key number within its validity period.

Respectfully,

ANGELA MARIA DE QUEIROZ DIAS
Coordinator of Private Law Case Processing

document VDA41719425 electronically signed in accordance with Article 1, §2, item III of Law 11.419/2006 Signatory: JUSTICE SYSTEM - AUTOMATIC SERVICES, Signed on: 05/27/2024 18:33:00 Document Control Code: a8fe619b-1869-4dc5-9fc1-73e8ffa46714 Access Key: https://cpe.web.stj.jus.br/#/chave?k=13EBAD6F735E97C35E39, Valid until 07/26/2024 at 6:33 PM

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SUPERIOR TRIBUNAL DE JUSTIÇA

CONFLICT OF JURISDICTION No. 204998 - DF (2024/0167106-6)

REPORTER	**MINISTER ANTONIO CARLOS FERREIRA**
RAISING	COURT OF LAW OF THE 3RD COURT OF EXECUTION OF TITLES Extrajudicial and Arbitration Disputes in Brasília - DF
RAISED	COURT OF LAW OF THE 3RD CIVIL COURT OF SANTA CRUZ DO SUL - RS
INTEREST.	AUTOTRAC COMMERCE AND TELECOMMUNICATIONS S/A
ATTORNEY	: EDEMILSON KOJI MOTODA - SP231747
INTERESTED PARTY	FORT SAFE VIGILANCIA LTDA
ATTORNEY	: NO REPRESENTATION IN THE CASE FILE - SE000000M

DECISION

This is a negative conflict of jurisdiction in which the 3rd Civil Court of Brasília - DF is the initiating party and the 3rd Civil Court of Santa Cruz do Sul – RS is the responding party in the case of an enforcement action filed by AUTOTRAC COMÉRCIO E TELECOMUNICAÇÕES SA against VIGILÂNCIA FORT SAFE LTDA.

The court, acting on its own initiative, declined jurisdiction in favor of the Federal District and Territories Court, arguing, in summary, that there is a forum selection clause determining the jurisdiction of said court.

The petitioner, in turn, considered that (e-STJ pp. 4/5):

> That learned Judge based his decision on the fact that the parties had included in the enforceable contract a clause electing the forum, designating this Judicial District of Brasília as the competent jurisdiction.
>
> However, the decision, made on its own initiative, referred the case to this jurisdiction without finding any abuse in the choice of forum, and without the parties having requested it.
>
> The forum selection clause, in this case, benefits the plaintiff herself, who freely chose to sue in the defendant's jurisdiction, thus benefiting the defendant and complying with the provisions of Article 53, III, a, of the Code of Civil Procedure.
>
> Furthermore, since the defendant is domiciled in that jurisdiction, the enforcement actions will also be carried out in that location, as it is likely the place where the defendant's assets subject to seizure are located.
>
> Finally, since this is a matter of relative jurisdiction, recognition would not be possible ex officio, but only at the request of the parties, except in the case of a consumer relationship where there is an abuse of choice, which is not the case here. case.

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In light of the foregoing, this Court considers itself incompetent to process and judge the present case, which is why I raise a conflict of jurisdiction.

Opinion of the Federal Public Prosecutor's Office in the following terms (e-STJ p. 20):

> Negative conflict of jurisdiction. Enforcement of extrajudicial title. Forum selection. Territorial jurisdiction.
> RELATIVE NATURE. IMPOSSIBILITY OF BEING DECLARED EX OFFICIO. STJ PRECEDENT 33. PRECEDENTS.
>
> Opinion in favor of acknowledging the conflict and declaring the jurisdiction of the Honorable Judge. Court of Law of the 3rd Civil Court of Santa Cruz do Sul - RS.

This is the report.

Decision.

In the present case, the issue under discussion is who has jurisdiction to hear the action. enforcement of an extrajudicial instrument initiated in disregard of the chosen forum.

The court, acting on its own initiative, declined jurisdiction based on an alleged contractual clause regarding the choice of forum that was not observed by the plaintiff, who filed the enforcement action in the district where the defendant resides.

According to the jurisprudence of this Superior Court, the forum selection clause establishes relative jurisdiction, *in verbis:*

> CIVIL PROCEDURE. REGIMENTAL APPEAL IN NEGATIVE CONFLICT OF JURISDICTION. COLLECTION ACTION. COMMERCIAL REPRESENTATION CONTRACT. ART. 39 OF LAW NO. 4,886/65.
> RELATIVE JURISDICTION. CHOICE OF FORUM CLAUSE.
> VALIDITY. PRECEDENT FROM THE SECOND SECTION OF THE STJ: ERESP 579.324/SC, MIN. NANCY ANDRIGHI, DJ OF 02/04/2008.
> The impediment of Article 117 of the CPC does not apply to this case.
> The known conflict is resolved by declaring the 1st Civil Court of the Santo Amaro Regional Forum - SP competent. The appealed decision is upheld. The interlocutory appeal is denied.
>
> (AgRg in CC 128.789/SP, Rapporteur Minister PAULO DE TARSO SANSEVERINO, SECOND SECTION, decided on 06/11/2014, DJe 06/17/2014.)

Therefore, the Court cannot declare its own jurisdiction without the defendant's request, according to Precedent No. 33 of the Superior Court of Justice: "relative incompetence cannot be declared ex officio" (Precedent No. 33, SPECIAL COURT, decided on 10/24/1991, Official Gazette 10/29/1991, p. 15,312).

In this regard, the jurisprudence of this Superior Court:

> INTERNAL APPEAL IN A CONFLICT OF JURISDICTION. INVENTORY.
> Territorial jurisdiction. Relative nature. Precedent 33/STJ.
>
> (...)

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2. Relative incompetence cannot be declared ex officio, according to Precedent 33 of the Superior Court of Justice (STJ).

3. Internal appeal denied.

(AgInt in CC No. 191.197/SP, Rapporteur Minister NANCY ANDRIGHI, SECOND SECTION, decided on 04/18/2023, DJe of 04/25/2023.)

In light of the foregoing, I hereby acknowledge the present negative conflict of jurisdiction and declare the Court of Law of the 3rd Civil Court of [City/State] to be competent. SANTA CRUZ DO SUL – RS .

Publish and notify.

Brasilia, May 22, 2024.

Minister Antonio Carlos Ferreira

Rapporteur

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